

From: Sweeney Jr., John E.
To: 'microsoft.atr(a)usdoj.gov'
Date: 1/23/02 8:50am
Subject: Microsoft Settlement

To whom it may concern:

I am writing this letter so that my comments on the Proposed Final Judgement in the Microsoft anti-trust case will be recorded in the public record under the Tunney Act. I am originally submitting this letter as email, with a print copy to follow.

As a consumer of computing products, and a worker in the I.T. industry, I have paid close attention to this case, as I am one of millions of consumers that have been harmed by Microsoft's business practices. After watching several years of legal maneuvering, I am extremely disappointed with the terms of the settlement that has been reached. My reasons are as follows:

The PFJ does not address Microsoft's long-standing strategy to maintain and enhance its monopoly position by imposing restrictive licensing and pricing practices on OEMs who sell Windows-equipped computers. For instance, Microsoft gives discounts on bulk Windows licenses to OEMs based on sales of unrelated Microsoft products, such as Office. They also can penalize OEMs who sell computers pre-installed with competing operating systems, and their licensing terms prevent sales of computers equipped to dual-boot both Windows and a competing system. This hinders consumers who may choose other products, both by reducing the market availability of those products, and substantially increasing the cost to acquire them.

The PFJ does not address Microsoft's long-standing strategy to maintain and enhance its monopoly position by breaking compatibility with competing products. It makes gestures in that direction, by supposedly requiring Microsoft to publish it's secret Windows APIs, but then it narrowly defines API, and provides several loopholes so that many important ones need not be disclosed, hindering competitors from being able to design competing, yet compatible products. Furthermore, the disclosure of Windows APIs isn't required until AFTER the deadline for ISVs to demonstrate that competing middleware is compatible. It also doesn't require Microsoft to disclose which APIs are covered by patents it holds, leaving Windows-compatible systems in and uncertain state of legality, which could deter otherwise interested consumers from using them, while if such disclosure were required competing systems could be designed which don't infringe on those patents. Finally, the PFJ does not require Microsoft to release documentation on the format of various output files it's programs create (such as the Word .doc file format, or Excel .xls file format), making it difficult for competitors to design compatible products, and when they do, making it easy for Microsoft to once again subtly change the format so that the competing product doesn't work correctly, and consumers are forced into another costly upgrade cycle.

In addition to these deficiencies, the PFJ as it is currently written does not even appear to be enforceable. There is no mechanism to insure that Microsoft will be forced to comply with its provisions and no penalty for disregarding them (although why it would wish to, since the PFJ allows the company to continue abusing the computing public for its own financial gain with almost no real hindrances, is anyone's guess)

I urge the judge to deny this PFJ and order the DOJ to either propose a new settlement (with some teeth, this time), and quickly, or to continue with the trial. While the object is not to punish Microsoft unnecessarily, the fact remains that the company is guilty of illegal maintenance of a monopoly, and the Final Judgement in this case should end Microsoft's ability to maintain it further. As the PFJ is currently written, it does nothing of the sort

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